

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
UNITED STATES OF AMERICA,

-against-

MELVIN ADAMS,

Defendant.  
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**TENTATIVE RULING ON  
DEFENDANT'S MOTION  
FOR RECONSIDERATION**

20 Crim. 628 (AKH)

ALVIN K. HELLERSTEIN, U.S.D.J.:

Upon reconsideration, an order for proof is established, as follows.

Defendant's motion for reconsideration is granted. The margins between relevant and prejudicial evidence in this case are hard to determine, and require continuing examination.

This is a felon-in-possession case, provable by showing, after undisputed preliminaries, that Defendant had possession of a weapon and of ammunition. The parole officer who conducted the search will testify to that effect. There is no need of proofs of inconclusive DNA searches or gang membership, and such proofs will not be admitted.

Defendant proposes to defend by arguing that the government's proofs were insufficient to prove that the apartment was not Defendant's residence, and that the jacket was not Defendant's jacket. Defendant can so argue. But Defendant cannot argue on the basis of affirmative evidence that is not in the record. Nor can Defendant argue that Defendant's DNA was not found on tests that the government conducted unless proof of those tests are in the record. If the government does not introduce them, and lacks obligation to produce them, Defendant may introduce such proofs. If Defendant were to do so, the government may cross-examine regarding the scope, purpose and limitations of such tests, and that the absence of the appearance of Defendant's DNA on the gun does not mean that he didn't handle the gun. The

government can also present rebuttal evidence of Defendants' membership in a gang and, through expert's proofs, that gang members passed guns back and forth.

SO ORDERED.

Dated: August 12, 2022  
New York, New York

/s/ Alvin K. Hellerstein  
ALVIN K. HELLERSTEIN  
United States District Judge